
Government of the District of Columbia



Metropolitan Police Department

Testimony of
Charles H. Ramsey
Chief of Police

***Public Roundtable on
Police Conduct in the Enforcement of the Drunk Driving Laws
in the District of Columbia***

Committee on the Judiciary
Phil Mendelson, Chair
Council of the District of Columbia

October 26, 2005

Room 123
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004

I want to thank both the Committee on the Judiciary and the Committee on Public Works and the Environment for your interest in the issue of traffic safety and the enforcement of impaired driving laws in the District of Columbia. We all recognize that impaired driving is a serious threat to the safety and well-being of our residents and visitors. And I share your goals of ensuring that our laws on impaired driving are fair, but tough, and that our police officers and the public have clear directions on what our laws say and how they are being enforced. I appreciate and support the Council's interest in taking a thorough and comprehensive look at our laws in this area.

Today, I welcome the opportunity to explain and clarify some of the Metropolitan Police Department's policies and procedures with respect to impaired driving.

No "zero tolerance" policy. First, I want to set the record straight about the MPD's policy on drunk driving enforcement. Our Department does not have a "zero tolerance" policy for adults enjoying a glass of wine (or other small amount of alcohol) and getting behind the wheel. The only exception is for underage drinkers, where DC law is clear about not permitting any drinking and driving. In fact, the concept of "zero tolerance" goes against the discretion and judgment that I think are so critical to an officer's effectiveness in combating impaired driving.

The District of Columbia is not a "zero tolerance" jurisdiction. The District, particularly its hospitality establishments, continues to be open for business, as it should be. No driver should fear that he or she will be arrested for responsibly consuming alcoholic beverages, as long as he or she is not impaired. But if a driver is impaired, our police officers must have the tools to ensure the safety of the public. And I am sure that the hospitality industry will work with us to prevent impaired consumers from endangering themselves and others on our roads.

DUI arrest activity. I also want to dispel some myths about the number of drivers who are being arrested for Driving Under the Influence (DUI) – that is, with a Blood Alcohol Concentration of below .08, which is the local and national standard for Driving While Intoxicated (DWI). To see some of the news coverage on this subject, one would think that our officers are arbitrarily pulling over practically every driver they saw, in order to check them for impairment, and that large numbers of people are being arrested for DUI.

The fact is that citywide, MPD officers make, on average, about 13 or 14 DUI arrests a month in which the driver's BAC is below .08 and DUI is the primary charge. In the majority of these cases, the BAC reading is .05 or higher. Illegal drugs are a factor in a sizeable number of cases as well. In recent years, we have found that many impaired drivers with alarming levels of the dangerous drug PCP in their systems and where alcohol may not have been the primary cause of impairment. So the notion that our officers are routinely stopping and arresting motorists for having a single glass of wine with dinner is an exaggeration. The reality is that we have been using the DUI law very sparingly – and to the best of our ability to target those motorists who raise suspicion because of their driving behavior and who indicate impairment by failing the field sobriety test.

Focus on impairment. In examining this whole issue, we need to broaden our thinking from a narrow focus on a single factor – Blood Alcohol Concentration – and instead consider the larger issue of impairment. We all know that alcohol affects different people in different ways, and even small amounts of alcohol can, and do, impair driving skills in some people. We also know that illegal drug abuse rates in the District are well above the national average. It is only logical to

conclude that DC has a disproportionately high number of drug-impaired drivers as well. Our laws and our enforcement policies must address the broad issue of impaired driving. To do so, we must consider more than just someone's BAC reading in isolation.

In evaluating a driver's level of impairment, our officers are trained to consider the totality of the circumstances and evidence at hand – driving behavior, performance on the field sobriety test and BAC levels. And it is important to note that the determination of impairment precedes arrest, which in turns precedes testing for the admissible BAC as measured through an Intoxilyzer. As a result, the officer on the street does not have the benefit of factoring the same BAC test that referenced in the law. The MPD has approximately 90 officers who have been trained and certified in the past two years in conducting the nationally accepted Standard Field Sobriety Test, and about 350 who have been trained at some time. Officers must complete a rigorous 32-hour course of instruction, and our internal policy requires members to come back every two years to be re-certified. MPD members who are conducting field sobriety tests are highly trained and skilled at what they do.

Furthermore, there are strong arguments that performance on field sobriety tests is a far more accurate indicator of impairment than is a single BAC reading by itself. This is particularly true for drivers who may be under the influence of illegal (or even some prescription) drugs, or a combination of drugs and alcohol. We need to ensure that our impaired driving laws respect the training, professional judgment and discretion of our police officers in trying to identify impaired drivers and remove them from our roadways.

Clear direction for our officers and the public. I fear that recent media reporting on the enforcement of impaired driving laws in the District has created some confusion among both the public and our officers. The emergency legislation recently passed by the Council would alter the DC Code with respect to the presumptive value of different BAC readings in court. As I read it, the legislation does not alter the ability of officers to make DUI arrests based on probable cause of impairment, even at BAC readings below .08.

Nevertheless, I imagine that most people would now interpret the law to mean that, as long as their BAC is below .08, they are free to drive in DC without the possibility of being arrested. Unless I am misreading either the letter or the intent of the emergency legislation, that is not the case. Regardless of BAC readings, officers can still arrest drivers who show signs of impairment and who meet probable cause standards. The burden of proof will be heavy on the government to prove such cases in court, given that BAC readings below .08 will have no presumptive value of impairment. Still, the types of arrests that have been reported on in the media – motorists with relatively low BAC levels, who demonstrated erratic driving behavior and who failed the field sobriety test – can still occur in the District, even under the emergency legislation passed by the Council.

At the same time, I know some of our officers are confused as well. They may be unclear about their ability to continue using discretion and judgment in arresting suspected impaired drivers, specifically those with a BAC of below .08. While the emergency legislation affects only the presumptive value of evidence in court, our officers do pay attention to such things. And they generally do not want to expend time and energy on making arrests that have little or no chance of being “papered” or prosecuted. So the effect of the proposed changes in our law could be fewer arrests for DUI, even in borderline cases where the officer may suspect impairment through alcohol, drugs or a combination of the two.

The bottom line is that I need to be able to give my police officers clear direction on what they should and should not do with suspected DUI cases where the driver's BAC level is below .08. And I am looking to the Council to be provide that direction and clarity.

* * * * *

I understand that there may be areas in which our drunk driving laws can be updated and improved. The Metropolitan Police Department is ready and willing to work with the Council on making any improvements that may be needed. But I do think this process should be deliberate and comprehensive. We should take the time to bring in the experts, examine all available research and best practices, and conduct a thorough study of current laws, policies and operations. Only then will we be able to develop legislation that meets our common goals of safe streets, safe neighborhoods, and clear directions to our police officers and the motoring public.

We have made tremendous progress in the area of traffic safety in the District of Columbia. Traffic fatalities in our city hit a 20-year low last year, and they are down again this year. Aggressive speeding and red-light running are on the decline as well. We need to ensure that any changes we make in our drunk driving laws continue to support the positive gains we have made.

I thank you for your time, and I look forward to working with the Council on finding ways to make DC an even safer place to drive, to walk and to live.